



WESTFIELD-WASHINGTON  
BOARD OF ZONING APPEALS

January 14, 2013

1312-VS-11

Exhibit 1

**Petition Number:** 1312-VS-11

**Subject Site Address:** 16132 Hymera Green (the "Property")

**Petitioner:** Richard D Smith II

**Request:** The petitioner is requesting a Variance of Standard from the Westfield-Washington Township Zoning Ordinance for a reduction of the minimum rear yard setback line in the Single-Family 3 cluster (SF-3) District (WC 16.04.030.E.6) to construct an in-ground swimming pool.

**Current Zoning:** SF-3 (Single-Family 3 Cluster)

**Current Land Use:** Residential

**Approximate Acreage:** .21 acres

**Exhibits:**

1. Staff Report
2. Aerial Location Map
3. Petitioner's Application

**Staff Reviewer:** Ryan Clark, Associate Planner

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**Petition History**

This petition will receive a public hearing at the January 14, 2013 Board of Zoning Appeals meeting.

**Property Information**

The subject property is .21 acres +/- in size and is located on one (1) parcel within the Countryside subdivision. The Property is improved with single family residence. The subject property is accessed from Hymera Green Drive.

The property is zoned SF-3 (Cluster). Abutting property in all directions is also zoned SF-3 (Cluster). Adjacent property to the north, south, and east is improved with single-family residential uses. Abutting property to the west is common area within the Countryside Subdivision.

**Analysis**

The submitted plans indicate that the proposed in-ground swimming pool would be located to the west of the existing residence. The property is improved with a deck in the rear of the property which limits



the available locations for the proposed in-ground pool. The submitted plans indicate that an existing six (6') foot fence will enclose the pool area.

The minimum rear yard setback for The Property is thirty (30') feet. The proposed in-ground swimming pool reduces the rear yard setback from the required thirty (30') feet to twenty (20') feet.

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### **Procedural**

The Board of Zoning Appeals shall approve or deny variances from the development standards (such as height, bulk, or area) of the underlying zoning ordinance. A variance may be approved under Indiana Code § 36-7-4-918.5 only upon a determination in writing that:

1. *The approval will not be injurious to the public health, safety, morals, and general welfare of the community:*

**Finding:** The intent of the setback requirement for swimming pools is to help mitigate any impact of the pool and the use of the pool from neighboring properties. The proposed swimming pool would be located approximately twenty feet (20') from the property line, which is approximately ten feet (10') closer than the required thirty feet (30') per the Zoning Ordinance. The rear property line of the subject property abuts common area for the entrance to the subdivision. It is unlikely that moving a setback line for a swimming pool closer to a common area will be injurious to the public health, safety, morals and general welfare of the community.

2. *The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner:*

**Finding:** It is unlikely that the submitted proposal for the reduction of the rear setback line for the pool would negatively affect the use and value of neighboring properties. The subject property is surrounded by similar uses on the north, south, and west. The most directly impacted property to the east is a common area.

*The strict application of the terms of the zoning ordinance will result in practical difficulties in the use of the subject property.*

**Finding:** Without removing the existing rear yard deck, there is physically no space on the subject property to accommodate a 14'x28' pool and meet all required setbacks. A smaller pool (or a pool in a different configuration), however, could possibly be located on the property and meet all setback requirements.



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**Recommendation**

If the Board finds the application of the terms of the zoning ordinance would result in practical difficulties in the use of the Property and adjacent property values will not be affected in a substantially adverse manner, then the Department recommends approving 1312-VS-11.